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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/723,064	11/27/2000	Richard Mihalik	PHSC.70080	4761

27910 7590 02/27/2003

STINSON MORRISON HECKER LLP  
ATTN: PATENT GROUP  
1201 WALNUT STREET, SUITE 2800  
KANSAS CITY, MO 64106-2150

EXAMINER

PESELEV, ELLI

ART UNIT PAPER NUMBER

1623

DATE MAILED: 02/27/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application N .

09/723,064

Applicant(s)

MIHALIK, RICHARD

Examiner

Elli Peselev

Art Unit

1623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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In view of the newly found prior art, the Final Rejection of October 8, 2002 is hereby withdrawn in order to apply a new ground of rejection.

Claims 1-3, 6, 13-16 and 18-21 are rejected under 35 U.S.C. 102(a) as being anticipated by the International Patent No. WO 98/50045 or Hall et al (U.S. Patent no. 5,843,980).

The International Patent discloses a composition for systemic use containing a combination of an antimicrobial agent and an anti-inflammatory agent wherein antimicrobial agent is tetracycline, cephalosporin, tylosin or aminoglycoside and an anti-inflammatory agent is flunixin or dexamethasone (page 8, lines 38-43 and page 9, lines 1-11).

Hall et al disclose administering to animals water containing tetracycline and dexamethasone (column 11, lines 6-10).

The claimed compositions and methods are anticipated by the International Patent and Hall et al.

Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over the International Patent No. WO 98/50045 or Hall et al (U.S. Patent no. 5,843,980).

Each of the International Patent and Hall et al discloses a veterinary composition as described above but do not disclose said compositions with additional components. However, since additional components, such as preservatives, are well known in the art to be useful in veterinary compositions (see, for example, Hall et al, column 6, lines 45-46), a person having ordinary skill in the art at the time the instant invention

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was made would have been motivated to add conventional additives to the compositions disclosed by the International Patent or Hall et al.

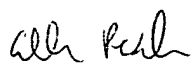
Applicant's arguments filed January 16, 2003 have been fully considered but they are not persuasive insofar as the above rejections relate to the claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elli Peselev whose telephone number is 703-308-4616. The examiner can normally be reached on weekdays 8.30 a.m. - 5.00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson can be reached on 703-308-4624. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4556 for regular communications and 703-308-4556 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.

Elli Peselev  
February 6, 2003

  
**ELLI PESELEV**  
**PRIMARY EXAMINER**  
**GROUP 1800**